

U. S. ARMY CORPS OF ENGINEERS
Water Quality Certification // Natural Resources Protection Act
Kennebec River Dredge – Bath and Phippsburg

EXCERPTS FROM THE DEPARTMENT'S RECORD

- NRPA Application, dated February 16, 2011 (relevant sections)
- Excerpts from Draft Environmental Assessment

- A Final report on the Effects of Dredging and Spoil Disposal on the Sediment Characteristics of the Clam Flats of the Lower Kennebec River Estuary (relevant sections), by Larsen and Johnson; dated March 1982
- Water Quality Monitoring Report, by Normandeau Associates; dated December 1997
- Letter from Captain Krestos, USN, to Major General Grisoli, U. S. Army Corps of Engineers; dated January 2011

- Department of Marine Resources review comments; dated March 10, 2011 and April 11, 2011
- Comments from Maine Geological Survey, e-mail correspondence; dated February 14, 2011 to February 24, 2011
- Division of Watershed Management comments on reclassification of estuarine and marine waters in Phippsburg

- Correspondence from licensee and appellants received during Department review

- Excerpts from other relevant documents:
 - o U. S. Food and Drug Administration Website: Bacteriological Standards of National Shellfish Sanitation Program (relevant sections)
 - o National Marine Fisheries Service Biological Opinion for Dredging the Federal Navigational Channel; dated January 2004
 - o National Marine Fisheries Service Biological Opinion for a 10-Year Permit to Bath Iron Works for Maintenance Dredging at their Facility; dated November 2009
 - o Previous Department Water Quality Certifications issued between 1989 and 2002

APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

→ PLEASE TYPE OR PRINT IN BLACK INK ONLY

→ SEE DETACHABLE INSTRUCTIONS

| | | | | | | | |
|--|--|---|--|---|--|---|--|
| 1. Name of Applicant: | | US Army Corps of Engineers | | 4. Name of Agent: | | | |
| 2. Applicant's Mailing Address: | | 696 Virginia Rd, Concord, MA 01742 | | 5. Agent's Mailing Address: | | | |
| 3. Applicant's Daytime Phone #: | | 978-318-8328 | | 6. Agent's Daytime Phone #: | | | |
| 7. Location of Project: (Nearest Road, Street, Rt.#) | | Kennebec River | | 8. Town: | | Bath and Phippsburg | |
| | | | | 9. County: | | Sagadahoc | |
| 10. Type of Resource: (Check all that apply) | | <input checked="" type="checkbox"/> River, stream or brook <input type="checkbox"/> Great Pond <input type="checkbox"/> Coastal Wetland <input type="checkbox"/> Freshwater Wetland <input type="checkbox"/> Wetland Special Significance <input type="checkbox"/> Significant Wildlife Habitat <input type="checkbox"/> Fragile Mountain | | 11. Name of Resource: | | Kennebec River | |
| | | | | 12. Amount of Impact (Sq.Ft.): | | Fill: | |
| | | | | | | Dredging/Removal: approx. 70,000 cy sand of sand | |
| 13. Type of Freshwater Wetland: (Check all that apply) | | <input type="checkbox"/> Forested <input type="checkbox"/> Scrub Shrub <input type="checkbox"/> Emergent <input type="checkbox"/> Wet Meadow <input type="checkbox"/> Peatland <input type="checkbox"/> Open Water <input type="checkbox"/> Other _____ | | FOR FRESHWATER Tier 1 <input type="checkbox"/> 0 - 4,999 sq. ft. <input type="checkbox"/> 5,000 - 9,999 sq. ft. <input type="checkbox"/> 10,000 - 14,999 sq. ft. | | WETLANDS: Tier 2/3 <input type="checkbox"/> 15,000 - 19,999 sq. ft. <input type="checkbox"/> 20,000 - 43,560 sq. ft. <input checked="" type="checkbox"/> > 43,560 sq. ft. | |
| 14. Brief Project Description: | | Maintenance dredging and advanced maintenance dredging of 70,000 cubic yards (cy) of sand from two areas in the Kennebec River. At Doubling Point 50,000 cy of material will be dredged and placed in-river at a previously used site located north of Bluff Head. At the mouth of the River at Popham Beach, 20,000 cy of material will be dredged and disposed of at a previously used nearshore disposal site about 0.4 nmi south of Jackknife Ledge. A hopper dredge would be used for this work. | | | | | |
| 15. Size of Lot or Parcel: | | <input type="checkbox"/> square feet, or <input type="checkbox"/> acres | | | | | |
| 16. Title, Right or Interest: | | <input checked="" type="checkbox"/> own <input type="checkbox"/> lease <input type="checkbox"/> purchase option <input type="checkbox"/> written agreement | | | | | |
| 17. Deed Reference Numbers: | | Book#: Page: | | 18. Map and Lot Numbers: | | Map #: Lot #: | |
| 19. DEP Staff Previously Contacted: | | | | 20. Part of a larger project: | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 21. Resubmission of Application? | | <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No | | If yes, previous application # | | Previous project manager: | |
| 22. Written Notice of Violation? | | <input type="checkbox"/> Yes → <input checked="" type="checkbox"/> No | | If yes, name of DEP enforcement staff involved: | | 23. Previous Wetland Alteration: | |
| | | | | | | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 24. Detailed Directions to the Project Site: | | Lower Kennebec River channel in the vicinity of Doubling Point (just below Bath), north of Bluff Head (for disposal), and at the Mouth of the river near Popham Beach. Also about 0.4 nautical miles south of Jackknife Ledge for disposal of Popham Beach material. See attached Draft Environmental Assessment | | | | | |
| 25. TIER 1 | | TIER 2/3 AND INDIVIDUAL PERMITS | | | | | |
| <input type="checkbox"/> Fee <input type="checkbox"/> Topographic Map <input type="checkbox"/> Documentation of Title, Right or Interest <input type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input type="checkbox"/> Photos of Area <input type="checkbox"/> Statement of Avoidance & Minimization <input type="checkbox"/> Statement/Copy of cover letter to Maine Historic Preservation Commission <input type="checkbox"/> Copy to municipality | | <input type="checkbox"/> Fee <input checked="" type="checkbox"/> Topographic Map <input type="checkbox"/> Documentation of Title, Right, Interest <input type="checkbox"/> Photos of Area <input checked="" type="checkbox"/> Plan or Drawing (8 1/2" x 11") <input type="checkbox"/> Copy of Public Notice <input type="checkbox"/> Professional Certification/Delineation <input type="checkbox"/> Erosion Control Plan | | <input checked="" type="checkbox"/> Alternatives Analysis, if required <input checked="" type="checkbox"/> Description of Avoidance & Minimization <input type="checkbox"/> Compensation Plan (if required) <input type="checkbox"/> Description of Previously Mined Peatland (if required) <input type="checkbox"/> Statement/Copy of cover letter to Maine Historic Preservation Commission <input type="checkbox"/> Construction Plan, if required <input type="checkbox"/> Copy to municipality | | | |
| 26. FEES, Amount Enclosed: | | | | | | | |

| | | | | | |
|---------------|-------|--------------|-------------|-----------------|------------|
| FOR DEP USE | L- | ATS# | Total FEES | CK# | Date Rec'd |
| FOR CORPS USE | App#: | Office Code: | Date Rec'd: | Date Completed: | |

SIGNATURE PAGE: *This page MUST be submitted along with the form on the previous page.*

By signing below the applicant (or authorized agent), certifies that he or she has:

☐ Completed all of the public notice requirements.

☐ Read and understood the following:

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean waters. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor a permit be issued.

CORPS SIGNATORY REQUIREMENT

USC Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry shall be fined not more than \$10,000 or imprisoned not more than five years or both. I authorize the Corps to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein.

DEP SIGNATORY REQUIREMENT

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

"I hereby authorize the person named below to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application."

SIGNATURE OF APPLICANT, if agent involved

DATE

"Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in the application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant."

William M. Kavanaugh
SIGNATURE OF AGENT/APPLICANT

2/16/2011
DATE

NOTE: Any changes in activity plans must be submitted to the DEP and the Corps in writing and must be approved by both agencies prior to implementation. Failure to do so may result in enforcement action and/or the removal of the unapproved changes to the activity.

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**APPENDIX A: MDEP VISUAL EVALUATION
FIELD SURVEY CHECKLIST**
(Natural Resources Protection Act, 38 M.R.S.A. §§ 480 A - Z)

Name of applicant: US Army Corps of Engineers Phone: 978-318-8328

Application Type: Tier 3

Activity Type: (brief activity description) Maintenance Dredging

Activity Location: Town: Bath and Phippsburg, ME Court: _____

GIS Coordinates, if known: see attached maps and Draft Environmental Assessment

Date of Survey: _____ Observer: _____ Phone: _____

**Distance Between the Proposed Visibility
Activity and Resource (in Miles)**

| 1. Would the activity be visible from: | 0-1/4 | 1/4-1 | 1+ |
|--|-------------------------------------|---|--|
| A. A National Natural Landmark or other outstanding natural feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| B. A State or National Wildlife Refuge, Sanctuary, or Preserve or a State Game Refuge? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| C. A state or federal trail? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| D. A public site or structure listed on the National Register of Historic Places? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| E. A National or State Park? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| F. 1) A municipal park or public open space? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2) A publicly owned land visited, in part, for the use, observation, enjoyment and appreciation of natural or man-made visual qualities? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3) A public resource, such as the Atlantic Ocean, a great pond or a navigable river? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. What is the closest estimated distance to a similar activity? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. What is the closest distance to a public facility intended for a similar use? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Is the visibility of the activity seasonal? (i.e., screened by summer foliage, but visible during other seasons) | | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Are any of the resources checked in question 1 used by the public during the time of year during which the activity will be visible? | | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

**APPENDIX B: MDEP COASTAL WETLAND CHARACTERIZATION:
INTERTIDAL & SHALLOW SUBTIDAL FIELD SURVEY CHECKLIST**

NAME OF APPLICANT: US Army Corps of Engineers PHONE: 978-318-8328
 APPLICATION TYPE: Tier 3
 ACTIVITY LOCATION: TOWN: Phippsburg and Bath, ME COUNTY: Sagadahoc

ACTIVITY DESCRIPTION: ☒ fill ☐ pier ☐ lobster pound ☐ shoreline stabilization
☒ dredge ☐ other: _____

DATE OF SURVEY: _____ OBSERVER: _____

TIME OF SURVEY: _____ TIDE AT SURVEY: _____

SIZE OF DIRECT IMPACT OR FOOTPRINT (square feet):
 Intertidal area: _____ Subtidal area: > 2 million square feet

SIZE OF INDIRECT IMPACT, if known (square feet): _____
 Intertidal area: _____ Subtidal area: _____

HABITAT TYPES PRESENT (check all that apply):
☐ sand beach ☐ boulder/cobble beach ☐ sand flat ☒ mixed coarse & fines ☐ salt marsh
☐ ledge ☐ rocky shore ☐ mudflat (sediment depth, if known: _____)

ENERGY: ☐ protected ☐ semi-protected ☒ partially exposed ☐ exposed

DRAINAGE: ☐ drains completely ☐ standing water ☐ pools ☐ stream or channel

SLOPE: ☐ >20% ☐ 10-20% ☐ 5-10% ☐ 0-5% ☐ + variable

SHORELINE CHARACTER:
☐ bluff/bank (height from spring high tide: _____) ☐ beach ☐ rocky ☐ vegetated

FRESHWATER SOURCES: ☐ stream ☐ + river ☐ wetland ☐ + stormwater

MARINE ORGANISMS PRESENT:

| | absent | occasional | common | abundant |
|--------------|--------------------------|--------------------------|--------------------------|--------------------------|
| mussels | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| clams | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| marine worms | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| rockweed | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| eelgrass | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| lobsters | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| other | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

SIGNS OF SHORELINE OR INTERTIDAL EROSION? ☒ yes (Popham Bch) ☐ no

PREVIOUS ALTERATIONS? ☒ yes ☐ no

CURRENT USE OF SITE AND ADJACENT UPLAND:
☒ undeveloped ☐ residential ☐ commercial ☐ degraded ☒ recreational

PLEASE SUBMIT THE FOLLOWING:
☐ Photographs ☐ Overhead drawing

Timing of Survey Work: The date, time of day, and tidal height of sampling. Ideally, surveys should be conducted between May 1 and November 30 on an ebb or flood tide. Surveys may be conducted at other times of year, if necessary. Include the timing of low tide on the survey date. If the activity will extend into the low intertidal and/or shallow subtidal, the survey should be conducted on a negative or zero tide.

Energy Levels:

Exposed/High energy: Area exposed to oceanic swell and wind waves. Wind fetch (i.e. direction of origin) unlimited. Water velocity exceeds 2 meters/second.

Partially exposed/Moderate energy: Oceanic swell attenuated by offshore reefs, islands, or headlands, but shoreline is substantially exposed to wind waves. Typical of cobble or gravel fields. Water velocity between 1 and 2 meters/second.

Semi-protected/Low energy: Shoreline protected from sea swell, but it may receive waves generated by moderate fetch. Typical of gravel or unconsolidated muddy sediments. Water velocity less than 1 meter/second.

Protected/Low energy: No sea swell, little or no current, and restricted wind. Typical of unconsolidated muddy sediments. Water velocity less than 1 meter/second.

Drainage on Intertidal Flats: The amount of water left on intertidal area after ebb tide.

Habitats: description of activity site and adjacent areas

Sand Beach: exposed environments containing at least 75% sand.

Boulder/cobble Beach: exposed environments dominated by boulders and/or loose rounded rocks.

Sand Flat: protected and semi-protected environment dominated by sandy sediment.

Mixed Coarse & Fines: semi-protected environment consisting of a mixture of rocks, boulders, gravel, sand, cobbles, and mud.

Rocky Shore: semi-protected to moderate consisting of rocks, boulders, or ledge.

Salt Marsh: persistent near shore emergent grass habitats.

Ledge: stable bedrock

Mud Flat: protected environments containing at least 75% mud

Eelgrass: intertidal and subtidal grass habitat.

Relative Abundance: the frequency of an organism at or adjacent to the activity site

Absent: Organism is physically absent from the specific area.

Scattered or occasional: A limited number of a specific organism found only after a thorough investigation of the habitat or organisms occurring in small (<1/2 square foot) patches or small clumps throughout the zone.

Common: Specific organism found readily with little investigation, but not visually obvious; found repeatedly and/or occurring in numerous patches throughout habitat.

Abundant: Specific organism is visually obvious throughout area with limited or no habitat disturbance.

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APPENDIX C: APPLICATION FOR A NATURAL RESOURCES PROTECTION ACT PERMIT

SUPPLEMENTAL INFORMATION FOR DREDGING ACTIVITIES IN A COASTAL WETLAND, GREAT POND, RIVER, STREAM OR BROOK

(Discard this part if dredging is not proposed as part of your activity.)

The DEP and the Corps strongly recommend that applicants schedule a pre-application meeting prior to submitting an application for dredging.

| | | | |
|---|--|---------|--|
| Volume to be dredged: | About 70,000 cubic yards | | |
| Sq. ft. to be dredged: 1 | | sq. ft. | |
| Max. depth of dredging below existing grade: | See attached Draft Environmental Assessment | | |
| Type of material (example: sand, silt, clay, gravel, etc.) to be Dredged: | Clean sand | | |
| Describe what erosion and sediment control measures will be used during the dredging operation. (attach separate sheet if necessary): | Not applicable. See Draft Environmental Assessment | | |
| Describe how and where the dredge spoils will be dewatered (attach separate sheet if necessary): Show dewatering location and erosion control measures on activity drawings. | Not applicable. Dredge material will be placed at previously used disposal sites in-river north of Bluff Head and nearshore south of Jackknife Ledge. | | |
| What equipment will be used for the dredge? | Hopper dredge. | | |
| Disposal Location: (Check one) | Upland disposal: <input type="checkbox"/> On site <input type="checkbox"/> Landfill <input type="checkbox"/> Other _____ | | |
| | Ocean disposal: Federal Disposal Site <input type="checkbox"/> Arundel <input type="checkbox"/> Portland <input type="checkbox"/> Rockland <input checked="" type="checkbox"/> <u>Other, In-River and nearshore. See attached Draft Environmental Assessment</u> | | |

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FOR UPLAND DISPOSAL:

Contact the Division of Solid Waste Management at (207) 822-6300:

Contacted: ☐ Yes ☐ No If yes, attach a copy of any correspondence.
Permitted: ☐ Yes ☐ No If yes, provide the permit number _____.

FOR OCEAN DISPOSAL:

- ☐ Submit as **Attachment 15**, a copy of the test results performed in accordance with the U.S. Environmental Protection Agency and the Army Corps of Engineers' document entitled "Regional Implementation Manual for the Evaluation of Dredged Material Proposed for Disposal in New England Waters" (May 2002). This is available from the Army Corps of Engineers. (207) 623-8367

NOTE: Applicants are **STRONGLY** recommended to contact the DEP prior to performing any sediment sampling. Improperly sampled or analyzed sediments may have to be retested.

- ☐ Submit as **Attachment 16**, a copy of a map showing the proposed transportation route to the disposal site.

List all municipalities adjacent to the proposed transportation site:

Phippsburg, ME – See Attachment 16 (Figure 2)

A copy of the application must be submitted to all municipalities adjacent to the proposed transportation site.

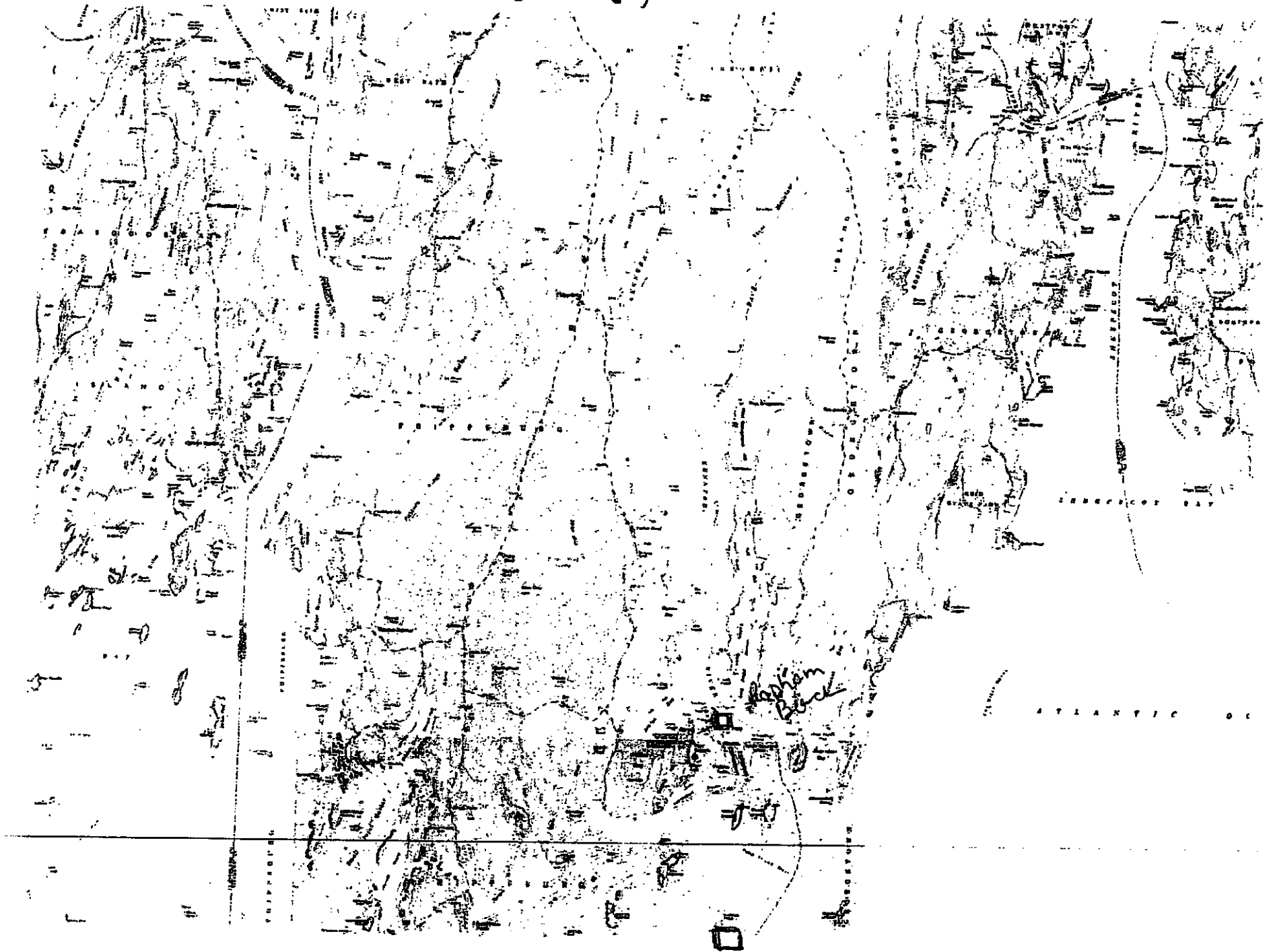
- ☐ Submit as **Attachment 17**, a copy of the notice of the proposed transportation route. A copy of the proposed transportation route must be published in a newspaper of general circulation in the area of the proposed route. (The notice of the proposed route must include compass bearings or Loran coordinates). The notice must be published under the heading "NOTICE TO FISHERMAN".

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Attachment 3 (1802)



Attachment 3 (2062)



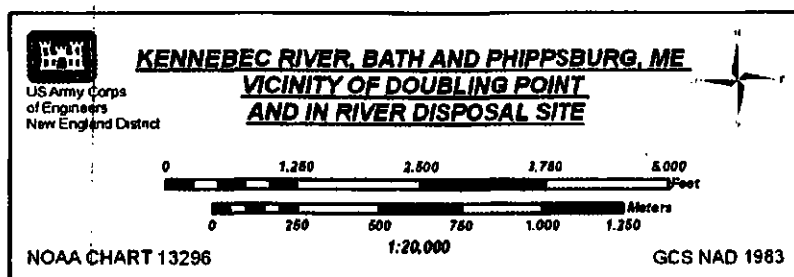


FIGURE 1. Doubling Point

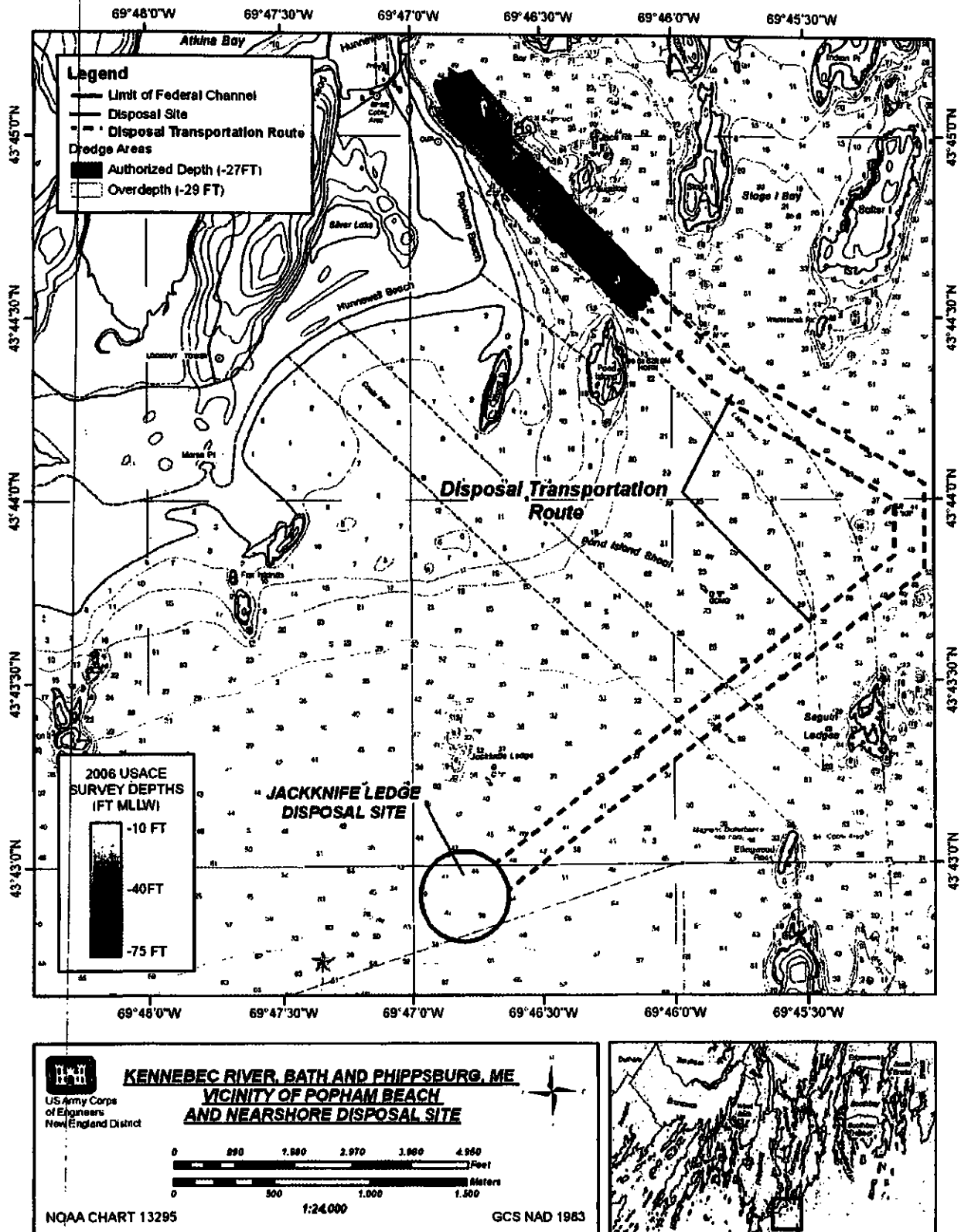


FIGURE 2. Popham Beach

Attachment 16

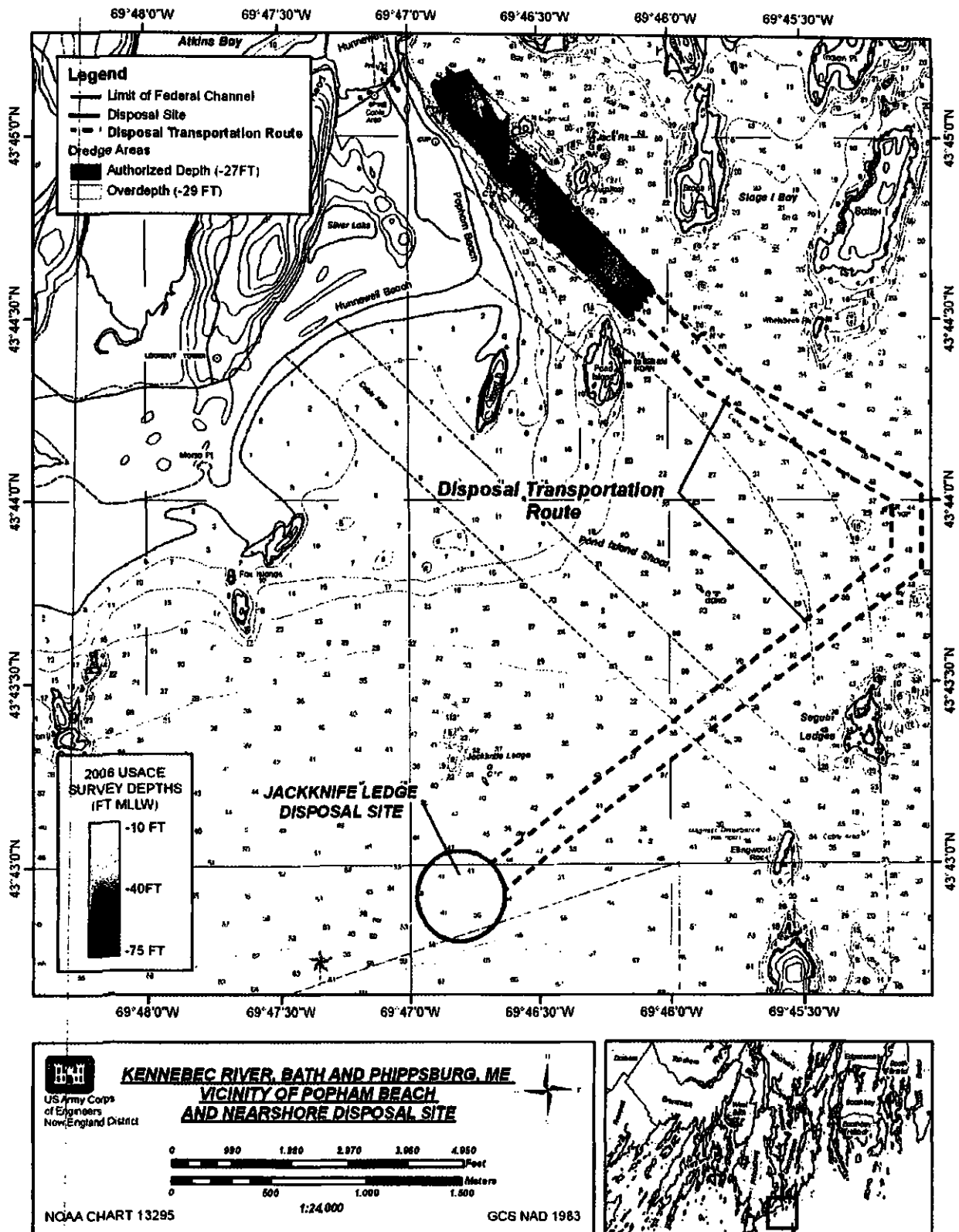


FIGURE 2. Popham Beach